

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PCT 21537Y	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/US2004/035846	International filing date ( <i>day/month/year</i> ) 27 October 2004 (27.10.2004)	Priority date ( <i>day/month/year</i> ) 30 October 2003 (30.10.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant MERCK & CO., INC.		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).																								
2.	This REPORT consists of a total of 5 sheets, including this cover sheet.  In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 740 14 35	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Date of issuance of this report 01 May 2006 (01.05.2006)</td> </tr> <tr> <td style="padding: 2px;">Authorized officer  Yoshiko Kuwahara</td> </tr> <tr> <td style="padding: 2px;">Telephone No. +41 22 338 90 90</td> </tr> </table>	Date of issuance of this report 01 May 2006 (01.05.2006)	Authorized officer  Yoshiko Kuwahara	Telephone No. +41 22 338 90 90
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Authorized officer  Yoshiko Kuwahara				
Telephone No. +41 22 338 90 90				

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:  
MERCK & CO., INC.  
126 EAST LINCOLN AVENUE  
RAHWAY, NJ 07065-0907

REC'D 18 MAR 2005

PCT  
WIPO

PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference <b>PCT 21537Y</b>		Date of mailing (day/month/year) <b>16 MAR 2005</b>
FOR FURTHER ACTION See paragraph 2 below		
International application No. <b>PCT/US04/35846</b>	International filing date (day/month/year) <b>27 October 2004 (27.10.2004)</b>	Priority date (day/month/year) <b>30 October 2003 (30.10.2003)</b>
International Patent Classification (IPC) or both national classification and IPC <b>IPC(7): C07C 255/59 and US Cl.: 558/390</b>		
Applicant <b>MERCK &amp; CO., INC.</b>		

**1. This opinion contains indications relating to the following items:**

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application


**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  Laura L. Stockton, Ph.D. Telephone No. 703/308-1235
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Form PCT/ISA/237 (cover sheet) (January 2004)

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US04/35846

**Box No. I Basis of this opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/35846

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application  
☒ claims Nos. 1-6 and 8-15

because:

- ☐ the said international application, or the said claim Nos. \_\_\_\_\_ relate to the following subject matter which does not require an international preliminary examination (*specify*):

- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-6 and 8-15 are so unclear that no meaningful opinion could be formed (*specify*):

In these claims, numerous variables (e.g., Ar<sup>1</sup>, Ar<sup>2</sup>, Ar<sup>3</sup>, R<sup>1</sup>, R<sup>2</sup>, etc.), their voluminous involved meanings, their large number of permutations and combinations and the list of compounds in claims 7 and 8 make it virtually impossible to determine the full scope for which protection is sought. As presented, the claimed subject matter cannot be regarded as being a concise description for which protection is sought and as such, the claims do not comply with the requirements of PCT Article 6. Thus, it is impossible to carry out a meaningful timely search on same. A search will be provided on the first discernable invention which is the first compound listed in claim 7.

- ☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for said claims Nos. \_\_\_\_\_
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
- |                            |                          |                                   |
|----------------------------|--------------------------|-----------------------------------|
| the written form           | <input type="checkbox"/> | has not been furnished            |
|                            | <input type="checkbox"/> | does not comply with the standard |
| the computer readable form | <input type="checkbox"/> | has not been furnished            |
|                            | <input type="checkbox"/> | does not comply with the standard |
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See Supplemental Box for further details.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/US04/35846

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 7 (in-part) YES  
Claims NONE NO

Inventive step (IS)

Claims 7 (in-part) YES  
Claims NONE NO

Industrial applicability (IA)

Claims 7 (in-part) YES  
Claims NONE NO

2. Citations and explanations:

Claim 7 (in-part) meets the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the first compound listed in claim 7.